



**DIVISION OF
ENFORCEMENT**

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
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September 29, 2021

VIA ECF

The Honorable Cathy L. Waldor
United States Magistrate Judge
United States District Court
District of New Jersey
Martin Luther King Building Courthouse
50 Walnut Street, Room 4040, Courtroom 4C
Newark, NJ 07101

Re: SEC v. Vuuzle Media Corp., et al.; Case No. 2:21-cv-01226 (D.N.J.)

Dear Judge Waldor:

We write to update the Court of the status of discovery prior to the conference currently set for October 4, 2021 at 12:30 p.m.

On June 17, 2021, the parties (except Defendant Flynn) provided initial disclosures pursuant to Fed. R. Civ. P. 26(a). On September 27, 2021, the Securities and Exchange Commission ("SEC") provided Defendants with its first amended disclosures. As of the date of this letter, the SEC has issued eight Fed. R. Civ. P. 45 subpoenas to nonparties and received responses and documents from six of them. Although the SEC has received no written requests for production of documents, Defendants Vuuzle Media Corp. and Richard Marchitto have verbally requested documents received in response to those subpoenas. Therefore, the SEC is preparing to produce copies of those responses to all Defendants this week. The SEC has received no notice of any third party subpoenas issued by any Defendant.

On July 20, 2021, the SEC served requests for production of documents on all three Defendants, which were due on August 19, 2021. On August 26, having received no response or document production from any Defendant, the SEC emailed all three Defendants. Vuuzle responded by requesting an extension until September 17, to which the SEC agreed. On August 30, having still received no response from Marchitto and Flynn, the SEC emailed both parties to request a meet and confer. After some back and forth, Marchitto produced responses on September 27, 2021. Flynn has not responded and, in fact, has not participated whatsoever as a party to this case.

Although both Vuuzle and Marchitto have provided responses and objections to the SEC's request, neither Defendant has produced documents. Instead, both Defendants refuse to produce

documents to the SEC until a protective order has been entered. In an attempt to address their concerns and move discovery forward, the SEC offered to abide by the terms of the SEC's proposed protective order until an order has been entered by the Court. In addition, since Vuuzle objected to the SEC's proposed paragraph permitting it to share information with parties other than the Department of Justice, the SEC offered to Vuuzle to abide by the terms of Vuuzle's proposed protective order until an order is entered by the Court. Despite these offers, both Defendant continue to refuse to produce documents.

Respectfully Submitted,

/s/ Devon Staren

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CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2021, I served a copy of the foregoing upon all counsel of record using this Court's ECF system, and upon Defendant Flynn using the email rflynn48@gmail.com.

/s/ Devon Staren
Counsel for Plaintiff